

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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JUN 25 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Revision of the Commission's Rules )

To Ensure Compatibility with )

Enhanced 911 Emergency )

Calling Systems )

CC Docket No. 94-102

RM-8143

To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER OF THE DIGITAL 911 TTY REQUIREMENT

Metro Southwest PCS, LLC (MSP) and Northeast Communications of Wisconsin, Inc. (NCW), by their attorney, hereby petition for a waiver of 47 C.F.R. § 20.18(c). In support whereof, the following is respectfully submitted:

1) MSP and NCW are authorized to provide digital PCS services in various markets in the mid-west.<sup>1</sup> Because MSP and/or NCW intend to initiate commercial broadband PCS service in the not too distant future, the instant petition is being filed to request a waiver of § 20.18(c) which requires broadband PCS service providers to "be capable of transmitting 911 calls from individuals

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<sup>1</sup> MSP received several broadband PCS licenses in 1997, however, as of the filing date of the instant petition, MSP has not yet activated any broadband PCS transmitters for commercial service. NCW obtained the right to acquire several broadband PCS licenses in the recently concluded Auction # 22 and has not yet activated any broadband PCS transmitters. See *Public Notice*, DA 99-1156, released June 11, 1999.

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with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY).”<sup>2</sup>

2) The Commission’s November 13, 1998 *Order*, DA 98-2323, discusses the efforts being made by the broadband industry to develop digital equipment which will be compatible with TTY devices. However, the November 13, 1998 *Order* also recognizes that “carriers operating digital wireless systems will not be able to bring themselves into compliance with the requirements of Section 20.18(c) in the near future . . .” *Id.*, at ¶ 5. The Commission understands that the problem with immediate compliance with the TTY service provision requirement is that there is a technical “incompatibility between TTY devices and the different digital wireless technologies.” *Id.*<sup>3</sup>

3) The Commission has determined that “completion of [] testing and the provision of an evaluation of the test results by the Forum to the Commission will play a role in the Commission’s determination of the best means to accomplish compliance with the requirements of Section 20.18(c).” *Order*, DA 98-2323, released November 13, 1998, at ¶ 6. Because the current problem with compliance with § 20.18(c) relates to an equipment incompatibility problem between TTY and broadband digital equipment, and because neither MSP nor NCW manufacture either TTY nor broadband digital equipment, and because the Commission “cannot ignore the fact, however, that despite the efforts of the Forum, users of TTY devices will not be able to operate such devices in conjunction with digital phones at any time in the near future,” *Order*, DA 98-2323, released

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<sup>2</sup> The Commission recently affirmed that a party which was not yet providing a service covered by § 20.18(c) as of the adoption date of the *TTY Waiver Order*, FCC 98-345, released December 31, 1998, was not required to file a waiver request at that time because § 20.18(c) does not apply until broadband services are provided. *See Order*, DA 99-1126, released June 9, 1999. Because MSP and NCW have not commenced provision of broadband PCS services, consideration of the instant waiver request is appropriate.

<sup>3</sup> MSP and NCW will employ CDMA in their broadband PCS systems.

November 13, 1998, at ¶ 7, MSP and NCW will not be able to comply with § 20.18(c) at the time commercial broadband service provision commences.

4) Because the problem of complying with § 20.18(c) is traceable to the acknowledged technical incompatibility between TTY and digital broadband equipment, MSP and NCW are dependant upon the equipment/software industries, and those assisting them such as the Forum, to resolve the equipment incompatibility issue before it will be possible for MSP and NCW to comply with the requirements of 20.18(c).<sup>4</sup> Under these circumstances, because MSP and NCW lack control over the development and introduction of equipment and software modifications which are necessary to make TTY devices compatible with broadband digital technology, neither MSP nor NCW are positioned to establish their own time tables for implementing § 20.18(c) compliant broadband PCS services.

5) Nevertheless, MSP and NCW fully intend to comply with § 20.18(c) within such time frame as the Commission may establish after it determines “the best means to accomplish compliance with the requirements of Section 20.18(c).” November 13, 1998 *Order*, DA 98-2323, at ¶ 6. Moreover, MSP and NCW acknowledge the requirement of § 20.18(c) which provides that when services are provided by a system which is not

capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY) . . . [that] the licensee operating such a digital system shall make every reasonable effort to notify current and potential subscribers who use or may use such a system that they will not be able to make a 911 call over such system through the use of a TTY device.

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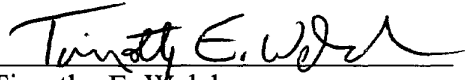
<sup>4</sup> The engineering staff which assists MSP and NCW with system build out functions has remained, and will remain, in contact with Nortel, the companies’ equipment supplier, concerning the availability of TTY compatible PCS broadband equipment.

Assuming that MSP and NCW commence provision of commercial broadband PCS services prior to the time that the Commission determines "the best means to accomplish compliance with the requirements of Section 20.18(c)," MSP and NCW will notify parties making inquiries about subscribing to the broadband PCS service about the inability to make 911 calls over the digital system through the use of a TTY device. Sales persons will be instructed to provide this information at the time the contract is signed and a separate notice will be attached to the subscriber agreement which provides the notification.<sup>5</sup>

WHEREFORE, in view of the information presented herein, it is respectfully submitted that grant of the instant waiver request would serve the public interest.<sup>6</sup>

Respectfully submitted:  
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Timothy E. Welch

June 25, 1999

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<sup>5</sup> A form of the notice is attached hereto.

<sup>6</sup> Based upon the *Order*, DA 99-1126, released June 9, 1999, MSP and NCW are entitled to a temporary waiver of § 20.18(c) pending Commission determination of how best to implement the digital TTY 911 service. It is noted that the temporary waiver granted in the *Order*, FCC 98-345, released December 31, 1998, "shall expire upon our subsequent disposition of the individual waiver petitions filed by each such party." *Id.*, at ¶ 5. Because the Commission will determine "the best means to accomplish compliance with the requirements of Section 20.18(c)," and because the waivers are temporary in nature and remain effective pending Commission action, MSP and NCW understand that carriers are not required to submit quarterly progress reports as discussed in the November 13, 1998 *Order*, at ¶ 11.

**NOTICE OF  
UNAVAILABILITY OF  
EMERGENCY 911 TTY SERVICES**

Please be advised that due to technical difficulties, the mobile telephone(s) being purchased/leased is not, at this time, technically capable of providing TTY services, including emergency 911 TTY services. This mobile telephone cannot be used to make 911 TTY calls in the event of emergencies. The mobile telephone industry and the Federal Communications Commission are currently working to develop compatibility standards which would allow use of analog TTY equipment with mobile digital services, but such services are not yet available in the digital mobile telephone industry. By signing below, the subscriber acknowledges receipt of this notice and the subscriber assumes the responsibility to inform all users of the mobile telephone(s) being purchased/leased regarding the unavailability of TTY and emergency 911 TTY services with the associated digital mobile telephones.<sup>1</sup>

\_\_\_\_\_  
Subscriber's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
<sup>1</sup> TTY equipment generally enables hearing and/or speech impaired persons to use telephonic devices. Non-TTY 911 emergency calling capability is available with the phone(s) being purchased/leased, provided that a connection with a host cell site is available. The 911 service limitation applies only to calls which are attempted with TTY equipment.